

James B. Lee, Chairman
Kevin S. Carter, Director

MINUTES OF THE MEETING OF THE
SCHOOL & INSTITUTIONAL TRUST LANDS ADMINISTRATION
BOARD OF TRUSTEES

DATE: JANUARY 19, 2006

PLACE: SALT LAKE CITY, UTAH

ATTENDING: BOARD

James B. Lee
Michael Morris (By phone)
Jim Eardley
John Ferry
Gayle McKeachnie

STAFF

Kevin S. Carter
Dave Hebertson
Tom Faddies
Tom Mitchell
Lisa Schneider
Kim Christy
LaVonne Garrison
Ron Carlson
Effie Burns
Kay Burton
John Andrews
Kurt Higgins
Ric McBrier
Curt Gordon
Drake Howell
Rodger Mitchell
Kyle Pasley
Susan Sweigart
Rick Wilcox
Elise Erler
Lynda Belnap

OTHERS IN ATTENDANCE

Natalie Gordon, Utah PTA
Margaret Bird, USOE, U of U, USU
Paula Plant, USOE
Karen Rupp, USOE
Terrah Anderson, Governor's Office of Planning & Budget

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Chairman Lee welcomed Board members, Staff, and guests to the meeting and noted that Mr. Morris will be joining the meeting by phone.

1. Approval of Minutes

With the correction of typographical errors noted by Mr. Lee and Mr. Morris, the Board approved the Board minutes of December 8, 2005.

Morris / McKeachnie. Motion approved.

“I move we approve the Board minutes of December 8, 2005.”

Roll Call:

Mr. Morris - - yes Mr. Eardley - - yes
Mr. Ferry - - absent at vote Mr. McKeachnie - - yes
Mr. Lee - - yes

2. Confirmation of Upcoming Meeting Dates

Due to some calendaring conflicts, the March meeting was changed from March 9 to March 16. With that change, the following schedule was approved by the Board:

February - - No meeting
March 16 - - Salt Lake City
April 13 - - Salt Lake City

3. Concurrence in Mineral Rule Change - R850-21-900 - Failure of Title

Ms. Garrison reviewed this item with the Board. At the December Board meeting, the agency presented a revised rule for oil and gas that would allow the agency to refund bonuses paid for oil and gas leases on lands in which the state's title failed. A refund situation occurred in 2004 and was described to the Board by a representative of the affected company at that meeting. The proposed revision as presented to the Board at the December meeting met with some discussion among Board members and the audience, and it was decided that more study should occur before the rule is changed. A sub-committee was formed to discuss the situation. Members of the sub-committee consisted of:

3. Concurrence in Mineral Rule Change - R850-21-900 - Failure of Title (cont'd)

Mr. Gayle McKeachnie, Board member and Chairman
Mr. Vernal Mortensen, Board member
Mr. Ross Matthews, Board member
Mr. John Andrews, SITLA Chief Counsel
Ms. LaVonne Garrison, Assistant Director/Oil and Gas.

The committee met on December 22, 2005. All committee members were present except Mr. Mortensen. The committee spoke with Mr. Mortensen via telephone at the end of the meeting, and he concurred with the decision of the committee.

Prior to the meeting on December 22, the agency polled the surrounding states and the BLM concerning their policies regarding refunds. Ms. Garrison provided a summary of the findings to the Board members.

Through discussions at the meeting and a review of how the surrounding states handle a refund situation, the committee agreed that there could be many different situations in which a refund may be warranted. It would be difficult to craft a rule that would be all inclusive of every situation that may arise in the future. Rather than being specific about when refunds could be given, the final decision was to repeal the rule in its entirety as it appears in all sub-surface section of our rules and allow each situation that arises to stand on its merits. The decision to remove it from all sub-surface rules is to keep the administration of rules for all sub-surface operations uniform as it might apply to refund situations.

In the future, if the rule is repealed, a company would request a refund from the agency in writing. It would be reviewed internally on its merits, and a final decision would be rendered by the Director as to whether the request was approved or not.

General agency rules were reviewed, and this change would not be in conflict with any other sections of our rules. The director has broad authority under the statute to manage the trust assets for the benefit of the beneficiaries, and this would be handled under his authority.

After the sub-committee met, Director Carter raised the issue of whether some rule broadly authorizing refunds is necessary under the terms of Section 63-46a-3 of the Utah Administrative Rulemaking Act. This section requires rulemaking when agency action: (a) authorized, requires, or prohibits an action; (2) provides or prohibits a material benefit; (c) applies to another class of persons or another agency; (d) and is explicitly or implicitly authorized by statute. The Legal

3. Concurrence in Mineral Rule Change - R850-21-900 - Failure of Title (cont'd)

Group does not believe that this provision requires rulemaking, since the agency's action (refunding erroneously paid amounts) is not authorizing, requiring, or prohibiting an action. There is admittedly some uncertainty on this issue of statutory interpretation.

If the Board concurs with the decision of the sub-committee, the agency will proceed with rulemaking to repeal the above-referenced rules. If there is concern about the comment raised by Director Carter, it would be possible to amend the agency's general rule concerning payments (R850-5) to add a provision that the Director is authorized in his discretion to refund payments deemed to have been made in error.

During formal rulemaking, there is a 30-day comment period before the rule becomes final. The committee also agreed that this change could proceed through the formal rulemaking process and that expedited rulemaking would not be necessary.

The committee is recommending that this be repealed wherever it appears in our rules (R850-21-900, R850-22-900, R850-24-300). This will repeal three rules.

McKeachnie / Ferry. Unanimously approved.

"I move that we concur in the recommendation of the committee."

Roll Call:

Mr. Morris - - yes
Mr. Ferry - - yes
Mr. Lee - - yes

Mr. Eardley - - yes
Mr. McKeachnie - - yes

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4. Appearance by Representative Gordon Snow Regarding Tabby Mountain

Representative Snow and Representative Mathis appeared before the Board. Representative Snow stated that he appreciated the opportunity to appear. He sees friendly faces here today that he knows and some he doesn't. He appreciates their service and the challenges that all of us have in dealing with the State's issues. He expressed his appreciation for Representative Mathis coming with him. He represents several counties in which there are some issues on trust lands.

Representative Snow addressed the Tabby Mountain Block, which is in his district. He has appreciated the public hearings that have been held, and he has attended several of them. The Trust Lands' representatives have been very gracious at the meetings. It is almost a unanimous consensus of the people living in those counties that we need to be very, very careful before we sell this block. There are access and rights of way that need to be reserved before the sale could occur. There have been a number of sales around this block that have limited access, etc., and they don't believe the counties and communities can afford to have this much land held up. He thinks that, if this would have been sold 10 years ago, it would have been for \$3 million. This is probably the best investment the Trust has.

Representative Snow expressed some challenges with our compensation program. We have been challenged publicly lately. Today he gets to vote on a bill regarding what legislators take as gifts. He doesn't take gifts, but he thinks it is the appearance. When it comes to the compensation and criticism we have received in the papers, he believes the same principle applies. He hopes that the Board will consider fair compensation, but not one that is overpaid.

Chairman Lee stated he had asked the Director to give Representative Snow a copy of our gift policy. We have a "no gift" policy. Representative Snow stated that, if we would now take care of the bonus program, that would be great. Mr. Lee stated that, in our reply to the audit on compensation, we noted we were supposed to take into consideration private companies also.

Mr. McKeachnie noted that he understands that Representative Snow feels we should just keep Tabby Mountain in our the portfolio. We lose money on it that way. It costs us more to administer than we make on it. Representative Snow stated he loses money on property until he sells it.

Mr. McKeachnie stated that the more valuable the property becomes, the harder it becomes to justify keeping it. What do we do 10-20 years from now? It makes the Board's decision harder the longer we keep it. His personal preference is to see that access is still made available, but he is not sure that we are doing our trustee duty unless we have a plan. Representative Snow stated it is the opinion of the counties and the public that we should keep it. Many counties struggle with their roads to maintain Trust Lands' mineral production, and they need our help.

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4. Appearance by Representative Gordon Snow Regarding Tabby Mountain (cont'd)

Representative Mathis stated he appreciates being in attendance. He appreciates this Board and the work and effort they go to to help the State of Utah. He represents two counties that are involved in land trades. He knows that we consider individuals when we do these exchanges. Individual lives are affected. People have permits and become accustomed to using land as part of their livelihood. As trades proceed, let's work as closely as we can with permittees and people who use the land so that it isn't a shock to them when there is a trade done. If there is a grazing permit on the land in a trade that goes to BLM, BLM should be encouraged to have the same rules as we had. The other concern that he has with trades is that access to public lands is a dramatic issue. As we trade lands, we are giving up inholdings within the federal lands, and we might be giving up access to those federal lands. He hopes that we in 50-60 years from now we haven't given up the access. He doesn't think money is the whole issue. If we trade more and more into federal land, more and more the opportunity exists to block the public from the property. As these trades proceed, let's work hard to maintain access and keep those individuals involved. Representative Mathis indicated he knows the staff already does this, and he would like Staff to continue to do it. We have a very challenging job to balance the business of the state lands and the public lives and interests in those lands. He admires the Board for doing this. Just keep the individual people in mind when doing this.

Mr. Morris stated he would like to discuss Tabby Mountain again. Apparently, it is an appreciating asset. It is apparently a good investment for the beneficiaries. At what time would you sell it? At what time would the price be so high that it would be even politically more troublesome to bring up and talk about the hold and exit strategies on the parcel? He agrees with Mr. McKeachnie that it would be even more sensitive and even harder or difficult to persuade the people interested in the asset. When do you sell it? When is the optimal time to sell and put the money in the school fund? It is not benefitting the schoolchildren today.

Representative Snow stated he thinks it is benefitting the schoolchildren today. He thinks the growth and increase in value is a benefit. He doesn't know if he agrees that, as it increases, it gets harder. He thinks that, as it increases, the people would recognize that it could be sold as long as we left some right of way for the people to keep using it.

Mr. Morris stated this has not been the case the last 10 years. It is not easier now to sell it for more money than it would have been to sell it 10 years ago for less money. Mr. Lee stated that one of the assignments we have is a trust relationship we have to the beneficiaries. In some things, the beneficiaries could say to us that we are not performing our beneficiary duty. We can't just ignore this asset.

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4. Appearance by Representative Gordon Snow Regarding Tabby Mountain (cont'd)

Representative Snow stated that he believes the beneficiaries are the schoolchildren of Wasatch and Duchesne Counties and their parents and that they have expressed an opinion to keep it. As a taxpayer, he believes he is a beneficiary. If we do what is best for the beneficiaries, we would invest in those properties that are appreciating faster.

Mr. Eardley stated that it is difficult for him to sit on the Board and not have his "county commission" hat on. He is very sensitive to the counties' issues. These concepts are very sensitive to all counties. He feels there are definitely long-term benefits for holding this land for a longer period of time. Part of this discussion is that we some times lose sight of the fact that there is a political component to these decisions. He doesn't know how we calculate this, but it has a value to it. He thinks that we should hold it and allow it to appreciate.

Mr. Ferry stated that the Board has a responsibility of a balancing act. There is a problem with the issue of a benefit to a few in those counties at the expense of many. We are actively working on changing some of our procedures so that we can generate a productive cash flow from that land so that we benefit everyone.

Mr. Lee expressed his appreciation to Representative Snow and Representative Mathis for their attendance and comments.

5. Update on Warm Springs

Mr. Tom Mitchell stated the negotiations on the Warm Springs lease have resulted in less than the Board authorized Staff to give. We anticipate that a document can be signed within the next few days. An escrow account will be set up by at least February 20. This will be settled on the terms, actually better, than the Board authorized.

6. Discussion of Proposed Road Policy - - 2006-01

Director Carter discussed this issue with the Board. There has been a sub-committee reviewing this. It consisted of Mr. McKeachnie, Mr. Ferry, Mr. Eardley, Ms. Bird, Director Carter, and the County Advisory Committee. The sub-committee decided there are four categories of roads: (1) roads established prior to the state acquiring title to the land; (2) roads temporarily authorized pursuant to Section 72-5-203; (3) roads created without authorization; and (4) roads with valid existing authorization.

6. Discussion of Proposed Road Policy - - 2006-01 (cont'd)

The committee then decided to try to develop direction for the Board to give the agency on each category of roads. These directions are included in the proposed policy. Mr. Ferry noted that, in the second category, it started out to be language that ongoing maintenance, etc., would not count. The new language now allows it under some circumstances. He feels this shows that Trust Lands is sensitive to the counties' position in this area. Ms. Bird stated that the issue with the counties was that it was very difficult for the counties to pay for roads when the roads were used by all citizens of the state and directly benefitted the trust lands. The beneficiaries would like to find another source of revenue to pay for these situations.

Mr. Morris asked if, in drafting and creating this new policy, the agency feels that this partially meets the goals and objectives for one of the non-revenue goals this fiscal year? Director Carter stated it was not a goal for this year.

The proposed policy is as follows:

The Board of Trustees

of the

School and Institutional Trust Lands Administration

☐ *New Policy*

☐ *Amends Policy No.*

☐ *Repeals Policy No.*

Policy Statement No. 2006-01

Subject: Roads and Access

The Board of Trustees of the School and Institutional Trust Lands Administration met in open, public session on January 19, 2006, and by majority vote declares the following to be an official policy of the Board:

- * The Board recognizes that there is an extensive road network which provides access to and across many trust lands. This access is important to allow full and economic development of trust lands.

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6. Discussion of Proposed Road Policy - - 2006-01 (cont'd)

- * The state legislature recognized the value of roads in 1992 and granted a temporary right of entry on any road crossing trust land which was in existence as of January 1, 1992. This legislative grant recognized that the state still had to fulfill “its fiduciary responsibilities toward the schoolchildren by protecting their trust holdings against loss” (Section 72-5-201(2)).
- * Generally, roads fall into four categories:
 - * roads that were established on trust land prior to title to the land vesting with the State of Utah and which are considered valid existing rights (Category 1 Roads);
 - * roads that were established across trust lands after title to the land vested with the State of Utah and:
 - * which do not have a grant of authority from the Trust Lands Administration, but which have been temporarily authorized by a grant of right of entry from the state legislature (Category 2 Roads); or
 - * which have been established after January 1, 1992, without a grant of an authority from the Trust Lands Administration and which are currently unauthorized (Category 3 Roads); or
 - * for which there is a valid grant of easement from the Trust Lands Administration or a predecessor agency (Category 4 Roads).

The Board hereby established the following policy to deal with these road categories:

Category 1 Roads (Roads established prior to the state acquiring title to land):

- * The Administration is directed to apply a liberal standard towards accepting an assertion of a valid existing right. It will be *prima facie* evidence that a road is a valid existing right if it appears on a General Land Office survey plat evincing the date of survey for establishment of the State’s title.

6. Discussion of Proposed Road Policy - - 2006-01 (cont'd)

- * The Administration will ultimately recognize an appropriate right-of-way scope established pursuant to Utah law and in the interim will recognize a 50-foot width for Class D roads and a 100-foot width for Class B roads, with the understanding that the acknowledgment will ultimately conform to the scope recognized by the United States on adjoining federal lands.
- * The Administration is directed to negotiate a Programmatic Agreement with the State Historic Preservation Officer to deal with issues involving historic properties.
- * Any documentation issued by the Administration recognizing or conditionally recognizing a valid existing right will be developed in conjunction with the State of Utah so that it will facilitate, to the greatest degree possible, resolution of RS 2477 issues.
- * The Administration should recover modest administrative costs for recognizing valid existing rights.

Category 2 Roads (Roads temporarily authorized pursuant to Section 72-5-203):

- * The Administration is directed to work with other governmental entities to convert temporary rights of entry into permanent easements, where doing so will not diminish the value of the trust asset.
- * The Administration, recognizing the value and importance of access to trust land income generation and in fulfilling its fiduciary duty to receive fair-market value for the use of trust assets, shall consider any reasonable approach to compensation, including, but not limited to: discounted pricing for multiple easements in the same application; payment-in-kind for future services rendered; receipt of compensation from affected lessees / permittees and purchasers; payment from state sources to preserve access for all citizens; and the use of funding mechanisms such as the OHV fund established pursuant to Section 41-22-19(3). Previous construction and ongoing routine road maintenance may be acceptable as compensation to the extent it is demonstrated that the construction and maintenance directly benefits the trust land beneficiary.
- * If judicial review determines that the temporary grant is extinguished by sale or other disposal of the property, rules should be promulgated to protect these roads, where appropriate, pursuant to Section 72-5-203(2).

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6. Discussion of Proposed Road Policy - - 2006-01 (cont'd)

Category 3 Roads (Roads created without authorization):

Roads established after January 1, 1992, without approval of the Trust Lands Administration, unless the road was pre-existing on land acquired by the Trust Lands Administration after January 1, 1992, should be legitimized by following the process outlined in existing rule and statute (R850-40 and Sections 53C-2-301 et seq.).

Category 4 Roads (Roads with valid existing authorization):

These roads should continue to be administered pursuant to existing rule (R850-40).

The Board approved the above policy.

Ferry / Eardley. Unanimously approved.

“I move we approve this policy.”

Roll Call:

Mr. Morris - - yes

Mr. Eardley - - yes

Mr. Ferry - - yes

Mr. McKeachnie - - yes

Mr. Lee - - yes

7. Chairman's Report

a. Beneficiary Report

Ms. Bird gave the board a sheet they are giving legislators on HB 78, Investment of Land Grant Trust Funds, which shows their support and gives some talking points. It was heard in committee yesterday and has been recommended for the Consent Calendar. It should be in the Senate soon. This was a bill that was carefully considered by the Investment Advisory Committee, where the Board has representation by Mr. Morris.

This bill:

- * Removes land grant trust funds from investment restrictions contained in the Money Management Act, intended primarily for short-term investments;
- * Submits investment of land grant trust funds to the prudent investor standard, intended for long-term investments, importing selections as appropriate from the Utah Uniform Prudent Investor Act, 75-7-901 et seq.
- * Amends composition of the Permanent Land Grant Trust Funds Investment Oversight Committee in order for the composition of the committee to more accurately reflect the ownership of the trust funds and strengthens the requirement that members have securities, investment, or banking experience.
- * Provides for conflict-of-interest restrictions.

This has been moved into a separate section of the Money Management Act and puts the Treasurer under the prudent-investor standard instead of the prudent-man standard. This Trust is still bound by all the fiduciary requirements. The Investment Committee is a seven-member committee.

Ms. Bird also noted that the Nominating Committee will be meeting in March. She asked that any recommendations the Board members may have be given to a committee member.

7. Chairman's Report (cont'd)

b. Other

I. Report From Objectives Sub-Committee

Chairman Lee reported that there was a sub-committee appointed consisting of Ross Matthews, Vernal Mortensen, Mr. Lee, Ms. Bird, and Director Carter to work on objectives for the next fiscal year. They have not had any meetings and would like to set up a meeting. He asked Board members to give them any ideas on new objectives that they might have. The sub-committee also will look at revenue and value-added and how this should fit into the objectives. Chairman Lee indicated he would like to meet some time in February. Director Carter will try to set something up soon. (Note: Chairman Lee called Director Carter soon after this meeting and asked that this meeting be set up after the end of the legislative session.)

II. Discussion of Development of Policy Regarding Board Member Attendance

Chairman Lee asked if the Board members feel we should have a policy on Board meeting attendance. Is there ever a time when we need to say there should be a policy because there is a problem in attendance. Mr. Eardley stated he feels this is directed at him because has missed a lot of meetings. Chairman Lee stated they know he had health issues and could not come to some meetings.

Mr. McKeachnie stated he feels he would rather have the right person here half the time than the wrong person all the time. He would hate to exclude people because of an attendance policy. Mr. Eardley stated he agrees. He thinks the Board needs representation from off the Wasatch Front. Mr. Ferry stated he wonders if, by having a policy, it takes away the flexibility of non-attendance because there are reasons to be absent. He thinks that, if there is a problem, the Chairman should call the Board member and discuss it. Mr. Eardly stated the Chairman should not hesitate to do this.

Mr. Lee stated he is concerned some times about having a quorum, but doesn't think we need a policy at this time.

Chairman Lee also noted that we need to have an audit sub-committee meeting. He asked Director Carter to set this up in the next couple of months. The sub-committee consists of Mr. Lee, Mr. Morris, Director Carter, Ron Carlson, Lisa Schneider, and Margaret Bird.

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8. Director's Report

a. Director's Update on Issues

I. Update on Performance Audit Conducted by Legislative Auditor
General's Office

Director Carter reviewed this with the Board. The compensation portion of this audit, Chapter V, was released last week and discussed in the Natural Resources Appropriation Sub-committee. Chairman Lee and Mr. Morris made our response. Director Carter thought our response was excellent. Most of the members of the committee expressed strong support for the agency. The remaining portions of the audit were delivered to us last Thursday. We sent our responses to Chairman Lee and Mr. Morris for review. The final version of our response was sent to the auditors yesterday. They were supposed to have given an embargoed copy to the press last night. It will be presented to the Audit Sub-committee today at 3:00 p.m. Director Carter reviewed with the Board, via a power-point presentation, what our response will be.

Chairman Lee asked that Staff provide final copies of the audit to the Board.

Ms. Paula Plant noted she has people asking her at the legislature how we advertise and how they get notice of our advertising. Mr. McBrier explained the process and noted that anyone who wants to receive notices for RFP's can call and be put on our list.

Chairman Lee noted that, when we previously appeared before the Appropriations Sub-committee, Senator Evans and others asked for a report on any salary surveys we do.

Director Carter reported on some information he obtained yesterday at the legislature. It sounds as if Senator Hatch intends to run a bill that will put the salaries of our office back under the Personnel Management Act. Senator Hatch seems to think the committee is not going to be very favorable of our budget request this year. They feel we are following the path of Workman's Compensation where the legislature does not have much control. The legislature wants to make sure we know they are still in control. Senator Hatch could not give us any situations where they feel we have failed to respond to any legislative requests. Director Carter indicated to him that we spend money to make money. If they don't appropriate us that which we have requested, we will make less money. Last year we made \$12.25 for every dollar we spent. Mr. McBrier noted that, if we slow the capital spending in Washington County, it will slow the privatization of land down there. Mr. Eardley agreed with this. Mr. Eardley stated he could talk with Senator Hatch.

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8. Director's Report (cont'd)

a. Director's Update on Issues (cont'd)

II. Proposed Legislative Issues

Director Carter stated that the only bill we are asking for is one that deals with cultural resources that cleans up a problem with selling cultural resources after we sell land. If we sell property and reserve the cultural resources, they are not now protected. We will fix the statute so that it will continue to be a criminal offense to destroy them even after sale.

Our budget hearing is scheduled for February 2 at 2:00 p.m. As this session continues to mature, Staff may call Board members for their support and assistance.

Ms. Rupp stated she feels the legislative issues this year are very disheartening. The beneficiaries spent much time in the early 1990's and came to the conclusion that changes needed to be made. We are now being penalized for the success of the program.

Chairman Lee stated he thinks the beneficiaries have to step up and support the salaries, bonus issues, etc. Mr. McKeachnie stated we just have to continue to educate legislative members and the public and keep fighting our battles the best we can. We do the best we can and pursue a steady course.

Chairman Lee asked Staff to keep the Board up to date on what is happening in the legislature, since the board won't be meeting again until after the legislative sessions ends.

b. Surface Group Report

I. Review of Process for Review of SULA's

Mr. Christy noted that the Board had asked last month for Staff to review the process of reviewing special use lease agreements (SULA's). One of the Surface Group's responsibilities is to oversee the various types of SULA's. The standard language for due diligence in our SULA's is as follows:

8. Director's Report (cont'd)

b. Surface Group Report (cont'd)

I. Review of Process for Review of SULA's (cont'd)

3. Due Diligence: Lessee agrees that if, at the end of a 5-year period, lessee has not substantially completed the improvements to be made to the subject property, as specified in Paragraph 1 above, Lessor shall thereafter have the right to terminate the Lease by giving written notice thereof to Lessee. Such termination shall be effective thirty (30) days after the giving of such notice. Lessor shall have the right, in lieu of such termination, to grant extensions in writing to such due-diligence requirement, as Lessor deems advisable in its sole discretion.

Ms. Bird asked if we could add a due-diligence clause to an old lease when it is assigned? Mr. McKeachnie noted that, if the lease requires approval for assignment, it probably could be added.

Mr. Christy demonstrated for the Board how the Business System now tracks when review periods are due. It has a "tickler" process that gives Staff a six-month notice of when the lease should be reviewed. Staff checks this system each week.

This was a review of this process for the Board. Ms. Bird stated the beneficiaries are very appreciative of this process. She commended Staff for this improvement.

II. Progress Report on Board Objective 2-C - - Quantifying Wildlife Values Associated With Trust Properties/Opportunities and Incentives To Enhance Habitat and Quality Hunting

Mr. Christy noted that Mr. McKeachnie and Mr. Ferry were both on a sub-committee who looked at this issue. Last Thursday there was a meeting of this committee, composed of 13 members. Mr. Christy gave the Board a power-point presentation on this issue. He engaged some qualified individuals to quantify the value of wildlife on trust lands, which they estimate to be \$1,331,205. This value does not necessarily include habitat. It represents the value of huntable lands that are trust lands.

Mr. Christy thanked the GIS Staff for using our technology in helping the individuals who worked on this value process.

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8. Director's Report (cont'd)

b. Surface Group Report (cont'd)

II. Progress Report on Board Objective 2-C - - Quantifying Wildlife Values Associated With Trust Properties/Opportunities and Incentives To Enhance Habitat and Quality Hunting (cont'd)

Mr. Christy showed the Board a map showing where the high-value trust lands are. Trust lands contribute approximately 900,000 acres to these high-value hunting areas. We now have maps that show how our lands play into CWMU units and where private lands are. Private landowners receive about \$200,000,000 through CWMU's. We have 15,000 acres of trust lands that are embedded within the private CWMU's. Next year our MOU with the Division of Wildlife Resources expires. We will start discussing this with them now as to whether this should be renewed or not.

Putting our lands into CWMU's creates some interesting dynamics. Mr. Ferry stated that the committee started looking at how trust lands could participate in the CWMU program. Senator Hatch is also on this committee. The committee is looking at where we have lands that we can have conservation permits and charge whatever we want for hunting. Mr. Ferry indicated he thinks there will be great potential in this program. It was noted the figures we are using are conservative. These dollars are renewable dollars every year, and we don't have to do any investing.

Mr. Christy thanked Mr. McKeachnie and Mr. Ferry for their help and participation on this committee. Staff anticipates that this can be accomplished as outlined in the objective.

III. Update on Rule Review Sub-Committee

Mr. Ferry stated this rule rewrite, of which he is a member of the sub-committee, is just going to take more time. We need to do it right. Mr. Christy stated this is a very important assignment and clearly needs to be done. We have a very diverse portfolio of responsibility. We would like to examine some models that would be appropriate to look at and then look at a rule rewrite. We probably need an additional year to have a good product. Instead of trying to piecemeal this, we think it is better to not do it this year, but to do it for next year. We will just not complete this incentive objective for this year.

8. Director's Report (cont'd)

c. Development Group Report

I. Review of Development Capital

Mr. McBrier reviewed the Development capital with the Board through a power-point presentation as follows:

Capital Projections - - FY 2006-FY 2007

	<u>Business Plan 2006</u>	<u>Forecast FY 2006</u>	<u>Forecast FY 2007</u>
Coral Canyon Investments	\$1,000,000	\$1,000,000	\$2,000,000
Eagle Mountain	915,000	555,000	415,000
Sienna Hills	3,076,000	3,395,000	2,755,000
South Block/Milepost 2	350,000	350,000	1,750,000
Sun River	350,000	200,000	100,000
Green Springs	50,000	50,000	200,000
Leeds	280,000	80,000	600,000
Other Projects	1,216,000	820,000	1,525,000
Total:	\$7,237,000	\$6,451,000	\$9,345,000

Mr. McBrier noted that, if our appropriations sub-committee doesn't approve our requested appropriations, we will have to pull back on some projects that we are trying to close. We will continue to work to make sure that the capital is within what is authorized. We need to wait to see what the appropriation is this year for us.

Mr. Curt Gordon reviewed Sienna Hills with the Board. He noted our land prices are going very well. He thinks we have reached a peak in the market at this time. Other information shown to the Board is as follows:

Sienna Hills Forecasts:

<u>Forecast Date:</u>	<u>7/2004</u>	<u>5/2005</u>	<u>Today</u>
Gross Revenues	\$37.8 M	\$56.3M	\$74.8M
Investments	\$ 8.9M	\$11.2M	\$13.7M

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8. Director's Report (cont'd)

c. Development Group Report (cont'd)

I. Review of Development Capital (cont'd)

Sienna Hills Investment and Revenue:

	<u>Before FY 2006</u>	<u>FY 2006</u>	<u>FY 2007</u>	<u>FY 2008 And Beyond</u>	<u>Total</u>
Investment	4,577,000	3,395,000	2,755,000	3,000,000	13,700,000
Revenue:					
Residential		8,200,000	8,900,000	22,400,000	32,500,000
Commercial	382,000	978,000	1,500,000	32,900,000	35,400,000
Total:	382,000	9,178,000	10,400,000	55,000,000+	75,000,000+

Sienna Hills Investment Detail:

	<u>FY 2006</u>	<u>Cost Share</u>	<u>FY 2007</u>	<u>Cost Share</u>
Core Infrastructure	120,000		230,000	
Roadways	2,376,100	834,300	1,867,900	1,126,200
Grading	1,048,630		500,000	
Engineering	343,292		95,000	
Landscaping	80,000		489,000	75,536
Recreation	130,000		580,000	
HOA	30,800		95,000	
Miscellaneous	100,000		100,000	
Total:	4,228,822	834,300	3,956,900	1,201,736

This was for information to the Board.

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8. Director's Report (cont'd)

c. Development Group Report (cont'd)

II. Cross Hollow - Cedar City, Utah

Mr. Rodger Mitchell reviewed this item with the Board. This involves more than 1200 acres immediately west of the Walmart/Home Depot shopping center on the south end of Cedar City. We have solicited proposals for development of this parcel. This transaction has a value potential in excess of \$20,000,000.

Mr. Mitchell noted that we have started reviewing the RFP's. There was much competition in this process. We have two very qualified proposals on the table for consideration. Staff will evaluate each proposal and bring back a recommendation in March or April.

III. Coral Canyon - Telegraph/SR9 Shopping Center

Mr. Mitchell reviewed this item with the Board. SunCor has advised us of their intent to sell their interest in the 20-acre shopping center site located at Telegraph and SR9. In fulfillment of their agreement with us to provide opportunities to retain an interest in commercial properties, they have required the buyer/developer of the shopping center to offer us the opportunity to retain ownership in this shopping center. We anticipate having a formal transaction presentation in March. This transaction has an equity value in excess of \$2,000,000 and may involve investment of some Miners Hospital capital. Mr. Mitchell noted that Smith's grocery store will be the anchor in this development.

Mr. Lee stated that one of his partners will be representing one of the Las Vegas entities in this. He will not participate in any of the discussion or voting on this issue.

8. Director's Report (cont'd)

d. Associate Director's Report

I. Update on Colorado River Exchange

Mr. Andrews updated the Board on the Colorado River Exchange. He and Director Carter have been in a series of meetings with the House Sub-Committee on Forests and Forest Health, which has jurisdiction over the version of the bill pending in the House of Representatives. We have been discussing issues raised by the Department of Interior and others. They have been working to try to get consensus with the minority group and the environmental community. Land exchanges still seem to be a "sticky" topic, and there isn't consensus in Congress as to how to handle them. The committee is getting many land exchange proposals, and they don't have consensus on how to deal with those proposals. People who have land exchanges are taking them to Congress, and Congressional staff is trying to figure out how to deal with them.

Mr. Andrews noted they met earlier this week on some specific issues. Some of the lands that have been added to the exchange package that we would like to acquire for oil and gas development have some threatened and endangered plants. We are trying to figure out some acceptable protocol and be able to develop them and give assurances that we will be sensitive to the plants. We are not subject to the threatened and endangered act on plants; so there is some concern that, when we take over the land, we would not take care of the plants. We want to take into account the interest of the counties also. We are working through these issues. We have another meeting on February 1, 2006.

We have finally gotten a hearing scheduled in the Senate. It is scheduled for February 1 also. The hearing will be held on the legislation as it is on file rather than on the negotiated product on which we have almost ready. We anticipate that, once we have this negotiated product, it will be substituted. The progress is somewhat slower that we would like.

9. Consent Calendar

There will be no discussion on the items on the Consent Calendar unless a member of the Board wants to discuss them. In the absence of any Board discussion or action to the contrary, the Director will proceed with the actions as discussed here. Chairman Lee stated he has not received any information regarding any concerns with the items on the Consent Calendar. Therefore, the following items are approved.

a. Commercial Building at Hidden Valley Commercial Site - Ivory Homes

In October, the Trust approved a transaction with Ivory Homes for the 300-acre/1000-home Hidden Valley master plan. We are now proceeding to document and implement this transaction. Ivory Homes has an immediate need to develop a marketing center to be located within the nearby Hidden Valley commercial site located on Brigham Road. Ivory has expressed an interest in working on the entire 11-acre commercial site, but we have advised them that the Trust needs to formally solicit development proposals on this shopping center opportunity and that this is planned for later this year.

In light of the foregoing, we have agreed with Ivory to pursue a first-stage development venture for construction and leasing of an approximate 12,000 square-foot building to be located upon approximately one acre of the Hidden Valley commercial site. This one-acre site will be planned to complement the overall development of the 11-acre site. The terms on which we propose to pursue this venture are detailed below. As this transaction will be in the nature of a joint venture, Board approval is required and requested.

Transaction description: It is proposed that a new LLC will be formed by Ivory Homes/Mabey Commercial and Trust Lands as 50/50 owners. The Trust will contribute the 1+/- acre of land, and Ivory/Mabey will contribute an amount of cash equal to the appraised value of the 1+/- acre of land contributed by the Trust. It is expected that the land will value at approximately \$7-8 a square foot or \$300,000 - \$350,000 per acre. We will arrange for the appraisal. The development entity will take out a construction loan to build the 12,000 square-foot building and associated site/infrastructure improvements. The land will be subordinated to secure the construction loan which will be further secured by a guaranty from Ivory/Mabey to the extent required by the bank. The Trust will not guaranty the loan.

9. Consent Calendar (cont'd)

a. Commercial Building at Hidden Valley Commercial Site - Ivory Homes (cont'd)

Ivory and associated businesses (i.e., title company) will lease in excess of 50 percent of the facility at market rates, and Ivory will run its marketing operation for the Hidden Valley project from the building. When the building is leased and stabilized, long-term financing will be arranged with debt not to exceed 70 percent of value. To the extent that a guaranty is required, Ivory/Mabey will provide the same. Ivory/Mabey will be responsible for managing the facility and will receive management fees not in excess of market conditions for similar properties in St. George. Leasing fees will be payable at a level not to exceed market, provided that leasing commissions will not be payable in connection with the Ivory-controlled leases.

The LLC agreement will provide, among other things, that cash flows generated by the project, after appropriate reserves, will be distributed based on ownership on a periodic basis; the parties will be subject to capital calls and dilution should they fail to contribute capital as required; buy/sell provisions shall be established to insure one party's ability to acquire the interest of the other should they wish to sell; and super majority votes shall be required for all significant/material transactions.

Ivory/Mabey has requested an opportunity to participate in the development of the entire 11-acre commercial site. The Trust is not prepared to make this commitment at this time. However, in recognition of their interest due to this proposed one-acre transaction, we have negotiated the following: In the event Ivory/Mabey are not successful in proposing to develop the entire center, the Trust will require the winning development entity to buy out the Ivory/Mabey interest in the one-acre development at fair-market value, determined to be the higher value established by two independent appraisals, conducted by appraisers approved and retained by the Trust and Ivory/Mabey.

Ivory/Mabey is interested in proceeding immediately as Ivory needs to establish a marketing presence at Hidden Valley as soon as possible. If development of this project proceeds this Spring, Ivory will have the required marketing presence established by the Fall, just in time to initiate sales efforts for the new Hidden Valley Project.

Financial Analysis: This transaction will establish the initial base value of this 11-acre commercial site at a value in excess of \$300,000 an acre and will support the marketing success of the Hidden Valley transaction. The entire commercial site will ultimately be developed as a

9. Consent Calendar (cont'd)

a. Commercial Building at Hidden Valley Commercial Site - Ivory Homes (cont'd)

neighborhood shopping center. Development of the center will offer a good opportunity for the Trust to retain a long-term ownership interest. Ultimate success will depend on uses attracted; i.e., small grocer, drug store, fast food, etc. We believe this can be achieved, but a formal offering of the center to the development market is scheduled for later this next year.

The one-acre transaction should be able to stand on its own during the period prior to the development of the overall center. A cash-flow analysis of this one-acre, stand-alone project is now being prepared. We anticipate that projected returns will warrant retaining an interest in this project and will provide a basis from which a transaction for the entire 11-acre site can be developed which will keep the Trust in a long-term ownership position.

Conclusion: This transaction will support the Ivory/Hidden Valley transaction, while initiating commercial development of the 11-acre commercial site with the Trust retaining an ownership interest. The recommended phasing of the commercial development will accommodate future efforts by the Trust to market this site broadly within the development community, while also insuring that Ivory's immediate needs are met. This transaction is in the nature of a joint venture and requires formal Board approval, which is hereby requested.

Mr. Morris stated that Ivory would like to participate in future buildings, etc. Given some of the criticism in our Legislative audit, when we do successive venture within the same master plan with the same developer, should we not be offering development parcels to the development community on a competitive basis. Mr. McBrier stated that we were not able to take the entire nine acres into a development with them because it would need to be offered. We do need to get this development going, so we structured this commercial site with them. Mr. Morris indicated he feels the one-acre site is necessary and just wondered if it set a precedent with Ivory that they are the front runner every time? Mr. McBrier stated there is only one commercial deal, and they understand they will have to compete on others.

Since the Board had no other questions or concerns on this item, it is approved.

9. Consent Calendar (cont'd)

b. Approval of Fossil Hills Multi-Family Parcel 5.1 Sale

The following outlines a proposed sale transaction for a parcel of land situated in St. George. In August 2005, the Planning & Development Group sent out offering packets to about 30 multi-family housing developers requesting proposals for the sale of the 13.5-acre Fossil Hills parcel. This parcel has an approved density of 12 dwelling units per acre or 166 units. In addition to sending out marketing packets, we also advertised the availability of the parcel in *The Spectrum* newspaper. On September 30, 2005, we received three proposals for this parcel.

Fossil Hills is located in the south part of St. George just north of the Ft. Pierce Industrial Park. The parcel fronts River Road, a major roadway containing utilities that are easily accessible. The parcel is in a very hilly area that has steep slopes and many areas that are not buildable. Of the 13.5 acres, only about 9.3 acres are developable. In October of last year, we developed a conceptual development plan for the parcel to determine the realistic number of units that could fit on the site. We found that we could fit about 110 units on the site with extensive grading work.

Working through the planning process, we obtained entitlements to build units on this parcel according to our plan. We also obtained a grading permit approving the removal of a small rock hill located within the parcel. The city approved the grading plan based on various conditions which the Trust committed to fulfill. The Trust will require the developer of this parcel to comply with the city-imposed conditions by way of a Development Declaration attached to the certificate of Sale agreement. As part of our plan approval, we agreed to set aside steep hillsides on the site as permanent open space. The most recent appraisal of the Fossil Hills parcel 5.1 set its value at \$1,750,000.

We used the following criteria to evaluate proposals:

- * Character, reputation, financial status, credit history, and prior real estate development experience.
- * The projected financial outcome of the proposal.
- * Ability to execute the proposed plan.
- * The vision of the proposed development.

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9. Consent Calendar (cont'd)

b. Approval of Fossil Hills Multi-Family Parcel 5.1 Sale (cont'd)

After receiving and evaluating the three submitted proposals for the parcel, we gave the three parties an opportunity to submit “best and final” offers. Staff gave the Board an exhibit which summarized these. Two of three respondents’ proposals did not meet the appraised value of the parcel. One of these, Color Country Community Housing, Inc., provides tax-subsidized housing.

As a side note, affordable housing has become a controversial issue in Washington County. A prevalent belief in the county is the Trust should donate land or provide land at a discount for affordable housing projects. Therefore, the selection of a developer who does not provide tax-subsidized housing may be considered a poor choice by some interests in the community. Even though it will not be tax subsidized, the project our recommended developer will build at Fossil Hills will provide housing in the more affordable end of the price spectrum. The Development Group’s Southwestern Area Office Staff participates in a newly formed Dixie Area Workforce Housing Affordability Committee (DAWHAC) formed to address the shortage of affordable or attainable housing.

Transaction and Financial Analysis: Based on the strength of their proposal, we recommended the selection of Dry Canyon Homes as the successful purchaser of Fossil Hills Parcel 5.1. Dry Canyon Homes proposed a direct purchase of the parcel from the Trust for \$1,994,000 (based on 108 dwelling units at \$18,000/unit). In addition, they offer a “kicker” which is a percentage share of the gross selling price of each unit over and above an agreed-upon base selling price of each unit. Subsequent to the closing of each residential unit, Dry Canyon Homes will pay the Trust eight percent of the difference between the retail gross selling price of the unit and a base price of \$165,000. For example, if a unit sells for \$175,000, Dry Canyon Homes will pay \$800 to the Trust. We calculate the “kicker” to have a present value of \$353,000. The two other respondents’ proposals did not meet or exceed the appraised value of the parcel.

This value is more than \$545,000 greater than the appraised value of the parcel and more than \$680,000 higher than the next highest proposal.

Given the fact that a nearby Dry Canyon Home product is currently selling for around \$190,000 a unit, we have determined the probability of obtaining closing payments at the closing of each unit to be high. The financial analysis suggests the Trust should pursue this transaction.

9. Consent Calendar (cont'd)

b. Approval of Fossil Hills Multi-Family Parcel 5.1 Sale (cont'd)

Conclusion: Not only has Dry Canyon Homes proposed a purchase price for Fossil Hills Parcel 5.1 that exceeds the appraised value, but Dry Canyon homes is willing to share closing proceeds with the Trust over and above a conservative base dwelling unit price. Dry Canyon Homes has successfully developed and marketed a nearby town home project that clearly is one of the best, if not the best, designed multi-family project in Washington County.

We are also recommending Dry Canyon Homes as the developer of Sienna Hills Parcel 12. After review of the financial statements of the principles of Dry Canyon Homes, we are confident that they have the financial wherewithal and ability to complete both projects simultaneously. We recommend approval of the sale of Fossil Hills Parcel 5.1 Dry Canyon Homes.

Since the Board had no questions or concerns on this item, it is approved.

c. Approval of Sienna Hills Church Parcel Sale

Earlier this year, Staff sent out offering packets to local churches requesting proposals for the three-acre Sienna Hills church parcel. This parcel is located within the larger 10-acre Parcel 12 in Sienna Hills. Parcel 12 is entitled for 12 dwelling units/acre per the approved Sienna Hills Planned Community Development zone. We received responses from three different churches for this parcel: The Church of Jesus Christ of Latter-day Saints (the "LDS" Church), the Southland Bible Church, and the Trinity Lutheran Church.

Prior to selling this parcel, the Trust will have rough-graded the church parcel and the surrounding rights of way and extended utilities to the parcel. An appraisal of the Sienna Hills church parcel set its base value at \$18,500 per dwelling unit.

Transaction: We recommend the selection of The Church of Jesus Christ of Latter-day Saints as the successful purchaser of Sienna Hills church parcel. The two other proposals were dramatically below the appraised value of the parcel. Negotiations with the LDS Church have resulted in the following terms:

9. Consent Calendar (cont'd)

c. Approval of Sienna Hills Church Parcel Sale (cont'd)

Parcel size: The LDS Church prefers an orientation of the parcel which results in a 3.22-acre size

Purchase Price: Based on \$18,500 per dwelling unit and 38 approved dwelling units on the 3.22 acres, the negotiated purchase price is \$703,000.

Road Improvement Reimbursement: The LDS Church will reimburse the Trust one-half the cost of constructing the roads which front the parcel.

HOA Contribution: Inasmuch as the LDS Church does not wish to be part of the Sienna Hills Homeowners' Association, the LDS Church will pay the Trust \$22,500 to provide for future maintenance of surrounding common areas. Although the LDS Church will not be part of the HOA and therefore not be bound by the Sienna Hills Design Guidelines, the Trust will contractually obligate the LDS Church to certain design guidelines regarding choice of color, architecture, landscaping, etc., of the church building and church site.

Fiber Optic Tap Fee: The LDS Church will pay \$3,000 as a tap fee into the Sienna Hills Fiber Optic Network.

Closing Costs: Each party will pay one-half of the closing costs.

Financial Analysis: The proposed terms of the deal, specifically the purchase price, are in line with the appraised value of the church parcel.

Conclusion: Located within the "town center" of Sienna Hills next to the elementary school and Washington City Park, the church will contribute to a sense of place and community. We recommend approval of this sale to the LDS Church.

Since the Board had no questions or concerns on this item, it is approved.

9. Consent Calendar (cont'd)

d. Approval of Sienna Hills School Parcel Sale (Parcel 15.A2)

As part of the Sienna Hills Planned Community Development zone, the Trust reserved an 11-acre school site in anticipation of the decision to locate an elementary school within the project. At the same time, the trust requested “town home” zoning of the school parcel just in case the Washington County School District chose not to locate a school there. The parcel is entitled for six dwelling units/acre.

The Washington County School District (the “District”) has expressed interest in obtaining this parcel for a school. In addition to building an elementary school, the district will construct a playing field on the parcel, which will be immediately adjacent to the planned Washington City Park to the north.

In addition to obtaining zoning approval, the Trust will have rough-graded the school parcel and the surrounding rights of way and extended utilities to the parcel prior to its sale. An appraisal of the Sienna Hills school parcel set its value at \$17,500 per dwelling unit.

Transaction: We recommend the sale of the Sienna Hills school parcel to the Washington County School District for the purpose of building a public school and associated playing field. Negotiations with the District have resulted in the following terms:

Parcel Size: The District prefers an orientation of the parcel which results in an 11-acre parcel size. In addition to purchasing the development area, the District will also purchase the trail and slope area immediately adjacent to the future school building. The total acres purchased are 12.48 acres.

Purchase Price: Based on \$17,500 per dwelling unit and 66 approved dwelling units for the 11-acre development area of the school parcel and \$1,000/acre for the trail and slope area, the purchase price is \$1,156,480.

Infrastructure Reimbursement: the Trust has completed the rough-grading of the school parcel, together with the adjacent Sienna Hills trail. The Trust will also cause the roads adjacent to this parcel to be built. The District will reimburse the Trust one-half the cost of constructing the roads which front the parcel and will pave the entire length of the Sienna Hills trail adjacent to the school parcel.

9. Consent Calendar (cont'd)

d. Approval of Sienna Hills School Parcel Sale (Parcel 15.A2) (cont'd)

Construction Timing: the District is confident a school will be built on this site within five years, but is unsure of the exact timing - - whether it will take two years or four years. As such, the District has agreed to construct (landscape) a significant portion of the school playing field within the first year after closing so the school parcel will not remain entirely barren. This landscaping (grass) will contribute to the adjacent city park the Trust is obligated to construct within a similar time frame.

HOA Contribution: Inasmuch as the District will not be part of the Sienna Hills Homeowners' Association, the District will pay the Trust a lump-sum dollar amount up front which is equal to the present value of future HOA assessments.

Fiber Optic Tap Fee: The District will pay a \$3,000 tap fee into the Sienna Hills Fiber Optic Network.

Closing Costs: Each party will pay one-half of the escrow fees.

The above-mentioned obligations will be enforced through Development Declarations that will be part of the Certificate of Sale and will run with the land.

Financial analysis: The proposed terms of the deal, specifically the purchase price, are in line with the appraised value of the school parcel. This transaction is scheduled for an immediate closing.

Conclusion: Located within the "town center" of Sienna Hills next to the church and Washington City Park, the school will contribute to a sense of place and community. We recommend approval of this sale to the District.

Since the Board had no questions or concerns on this item, it is approved

9. Consent Calendar (cont'd)

e. Approval of Sienna Hills Parcel 12 Sale

In October 2005, we sent out about 30 offering packets to the multi-family housing market requesting proposals for the 7.2-acre Sienna Hills Parcel 12 with an approved density of 12 multi-family attached dwelling units per acre. This residential portion of Parcel 12 is part of a larger parcel that will also contain a 3.2-acre church parcel. *The Spectrum* newspaper also ran an advertisement on the availability of the parcel. On November 21, 2005, we received eight proposals for this parcel.

Since the parcel is located immediately adjacent to Washington Parkway, it is an important gateway to the entire Sienna Hills project. Parcel 12 is entitled for 84 dwelling units as part of the Sienna Hills Planned Community Development Zone approved by Washington City in 2005.

The Trust has completed rough-grading on the parcel as well as the installation of sewer lines in the future streets fronting the parcel. These streets will be constructed by the Trust in early 2006. The most recent appraisal of Sienna Hills Parcel 12 set its value at \$1,598,400 or \$22,000 per acre.

Proposed Evaluation: We used the following criteria to evaluate proposals:

- * Character, reputation, financial status, credit history, and prior real estate development experience.
- * The projected financial outcome of the proposal.
- * Ability to execute the proposed plan.
- * The vision of the proposed development.

After receiving and evaluating the eight proposals submitted for the parcel, we asked interested parties to submit their “best and final” offers. All the offers contained different plans with differing number of units.

In order to make an “apples-to-apples” comparison of all the proposals, we then requested the most competitive parties to prepare revised proposals based on 72 dwelling units on the parcel. Due to the location of Parcel 12 at the gateway to the rest of the Sienna Hills development, we determined it would be more favorable for the overall Sienna Hills project to have slightly less density on the parcel than what it was entitled for.

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9. Consent Calendar (cont'd)

e. Approval of Sienna Hills Parcel 12 Sale (cont'd)

Transaction: We recommend the selection of Dry Canyon Homes as the successful purchaser and developer of Sienna Hills Parcel 12 based on their competitive financial terms and ability to execute a quality project.

Parcel Size: 7.2 acres, 72 dwelling units

Purchase Price: Dry Canyon Homes proposed a direct purchase of the parcel for \$2,160,000 (based on 72 dwelling units at \$30,000/unit). In addition, they offered an eight percent share (kicker) of the gross selling price of each unit over a base selling price of each unit set at \$190,000. For example, if a unit sells for \$200,000, Dry Canyon Homes will pay \$800 to the Trust. Combined, the purchase price and kicker result in a price of approximately \$2,300,000.

Infrastructure Reimbursement: Dry Canyon Homes will reimburse the Trust one-half of the cost of constructing the road which fronts the parcel. To facilitate the installation of the fiber optic network, Dry Canyon Homes will install conduits from the internal roadways to each building through which the fiber optic provider will string fiber.

HOA Contribution: Future owners of the dwelling units built on Parcel 12 will pay Homeowners' Association Assessments.

Fiber Optic Tap Fee: Dry Canyon Homes will participate in the Sienna Hills Fiber Optic network and pay for the installation of hardware within each dwelling unit to make the connection to the network.

Closing Costs: Each party will pay one-half of the escrow fees.

The above-mentioned obligations will be enforced through Development Declarations that will be part of the Certificate of Sale and will run with the land.

Since the Board had no questions or concerns on this item, it is approved

10. Consideration/Approval of Amendment to Policy 2005-03 - - Sale of
Non-Trust Lands at Auction - - Policy 2006-02

Director Carter noted that we have had a request from another State agency that we be their agent in selling some of their lands. We have done this before on some of the beneficiary lands, and it has proved very beneficial to them. The statute is broad enough for us to sell other agency lands, but the policy is not broad enough to allow us to do it. The only part of this policy that would change is that we could sell lands for other State agencies. We would still have to retain all our costs. The other change would allow us to sell lands in which the beneficiaries had an interest. We are asking for approval of the following policy:

*The Board of Trustees
of the
School and Institutional Trust Lands Administration*

☐ New Policy

☐ Amends Policy No. 2005-03

☐ Repeals Policy No. 98-03

Policy Statement No. 2006-02

*Subject: Sale of Non-Trust Lands
At Auction*

The Board of Trustees of the School and Institutional Trust Lands Administration met in open, public session on January 19, 2006, and by majority vote declares the following to be an official policy of the Board:

With the consent of the State Risk Manager, the Board supports the marketing and disposal of non-trust lands by the Trust Lands Administration, subject to the following limitations:

1. This service will be made available only to the beneficiaries of the trust, their closely related institutions, properties where the beneficiaries may have an interest, and lands owned and/or managed by other agencies of the State.
2. This policy shall remain in effect until terminated by the Board.
3. The Trust Lands Administration shall have absolute discretion regarding whether or not to market particular properties.

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10. Consideration/Approval of Amendment to Policy 2005-03 - - Sale of Non-Trust Lands at Auction - - Policy 2006-02 (cont'd)

4. The Trust Lands Administration shall enter into a contract with the entity (the “seller”) for which it will be marketing and disposing of the property. The contract shall include at least the following provisions:
 - a. The seller will reimburse Trust Lands Administration for the actual costs of marketing and selling the property.
 - b. The minimum-acceptable selling price, which shall be set by the seller, and any other instructions from seller to Trust Lands Administration.
 - c. The duties to be performed by Trust Lands Administration.
 - d. A provision holding Trust Lands Administration harmless and indemnifying it from any and all claims, including claims relating to the validity of title, the correctness of the legal description, and hazardous waste liability. There may be an exception, however, for an improper sale by Trust Lands Administration for less than the minimum-acceptable selling price.
 - e. A requirement that the seller obtain a commitment for title insurance and provide the original documentation to Trust Lands Administration prior to the date of the sale.
 - f. A requirement that the seller provide Trust Lands Administration with an executed conveyance document to be used by Trust Lands Administration in the event the property is sold for at least the minimum-acceptable selling price.
5. Trust Lands Administration may not finance the sale of the properties.
6. At any sale involving non-trust lands property, Trust Lands Administration should announce the fact of a guaranteed minimum price and explicitly disclaim any warranties or representations of title by Trust Lands Administration.

10. Consideration/Approval of Amendment to Policy 2005-03 - - Sale of
Non-Trust Lands at Auction - - Policy 2006-02 (cont'd)

Director Carter noted that the Division of Wildlife Resources has some surplus properties they would like to move into the marketplace, and they feel we do better at selling land than they do. They intend on using these funds to acquire some of the lands from us that they would like.

Mr. Morris asked if it is lucrative for us? Director Carter stated we sold properties that were donated to Utah State University. They tried for years to sell them and could not. We sold them the first time for more than they were asking. We recovered our costs, and the beneficiary received its money. Mr. Morris stated he feels it is a real compliment to Staff for others to ask us to sell their land, even private parties to sell their properties. The Director noted we track the costs we incur in selling these properties.

Mr. McKeachnie stated there is a great need in the State because other State agencies don't do a good job of selling their properties. He wonders when it comes to the point that it does cost us because we are devoting time to this in lieu of working on our properties? Possibly we should charge a fee. Director Carter stated it is totally at our discretion if we do it. If it gets burdensome, we would ask for a fee. Mr. Andrews stated we have a good reputation for selling property, and we get a fee for doing this for others. Mr. Morris noted that the other property owners enjoy extremely good exposure through our process. Mr. Andrews stated that we may want to distinguish property in which the beneficiaries have an interest from other properties that we are asked to sell. Some of these would be beneficial to us.

Ms. Bird stated that she shares the concerns regarding receiving a percentage or fee like a realtor would. She understands we are reimbursed for costs, but she doesn't think Staff is tracking time of every individual that has worked on a sale. She thinks they should do this to determine our costs. To which beneficiary does the compensation go? Does it go to all beneficiaries?

Mr. Lee asked if Staff could look at the policy on what we could charge and see if we could charge a fee. Director Carter stated a realtor charges a percentage to cover his costs and also make a profit. We are already covering our costs so we could look at a percentage that we could charge. We need to be cautious on creating a percentage that would not detract. He thinks we are only going to see one or two a year of these. Certainly, if it becomes more than that, we

10. Consideration/Approval of Amendment to Policy 2005-03 - - Sale of
Non-Trust Lands at Auction - - Policy 2006-02 (cont'd)

would need to do more about it. Mr. Ferry stated this is a good first step. There might be a time later on where we need to charge a fee. Ms. Bird stated the beneficiaries would like to see a fund accounting when this happens of each employee who works on this including their salary and benefits.

Eardley / Ferry. Motion approved.

“I move we approve this policy.”

Roll Call:

Mr. Morris - - no	Mr. Eardley - - yes
Mr. Ferry - - yes	Mr. McKeachnie - - yes
Mr. Lee - - no	

Meeting adjourned at 12:15 p.m.